(3)

Division Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

W. P. NO. 3578 OF 2004

PETITIONER

Zila Sahakari Kendriya Bank Karmachari Sangh, Jagdalpur A Registered association of Employees of the District Central o-operative Bank Ltd., Bastar Dn., Jagdapur bearing Registration No. 5672 dated 11/7/2000 & having its regd. office in the premises of the District Co-operative Central Bank Limited., Jagdalpur Through its President Manoj Kumar Jha, S/o Late Pandit R. L. Jha, Aged about 47 years, Occupation - Service, presently posted as Lames Manager, Distt. Coop, Central Bank,Kanker,Dist.Kanker[CG]

P.R. No. 35623 dated 23/9/04 Presented by Shri A. Tiwari

RECEIVED COPY 23/9/04 Clerk to A. G. Bilaspur

VERSUS

RESPONDENTS

1. State of Chhattisgarh through The Secretary, Department Of Agriculture & Co-operative, Mantralaya, Dau Kalyan Singh Bhawan Raipur [Chhattisgarh]

2. Registrar, Co-operative Societies, Chhattisgarh Labhandi, Raipur [CG]

3. Zila Sahakari Kendriya Bank Maryadit, Jagdalpur, through Its Chief Executive Officer Jagdalpur, Dist. Bastar [CG]

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF CERTIORARI, MANDAMUS PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, DIRECTION OR DIRECTIONS, ORDER OR ORDERS:

(101)

HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR
(DIVISION BENCH)

WRIT PETITION NO. 3578 OF 2004

Zila Sahakari Kendriya Bank Karmachari Sangh, Jagdalpur

Versus

State of Chhattisgarh & Others.

Order for consideration

Sd/-
Chief Justice

Hon'ble Shri L.C. Bhadoo, J.

Sd/-
L.C. Bhadoo
Judge

Post for 26/October, 2004.

Sd/-
Chief Justice

25-10-2004

(102)

HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR
(DIVISION BENCH)

CORAM : Hon'ble Shri A.S. Venkatachala Moorthy, C.J.
& Hon'ble Shri L.C. Bhadoo, J

WRIT PETITION NO. 3578 OF 2004

Zila Sahakari Kendriya Bank Karmachari Sangh, Jagdalpur

Versus

State of Chhattisgarh & Others.

Present: Petitioner by Shri Manindra Shrivastava, Advocate.

Respondents 1 & 2/State by Shri P.K. Verma, Additional Advocate General.

ORDER

(October, 2004)

The following order of the Court was passed by **A.S. Venkatachala Moorthy, C.J.**

The second respondent namely Registrar Co-operative Societies passed an order reducing the age of retirement of the employees of Chhattisgarh State Co-operative Bank and District Co-operative Central Bank to 58 years from 60 years, by its order dated 10-09-2004. The petitioner by name Zila Sahakari Kendriya Bank Karmachari Sangh, Jagdalpur, which is a Registered Association of the employees of the District Central Co-operative Bank Ltd. Bastar Division, Jagdalpur, has filed the instant writ petition praying the Court to issue writ of certiorari to

quash the said order so also the earlier order dated 30-07-2004 passed by the State Government. An interim relief has also been sought for praying the Court for staying the above said orders etc.

(2) The petitioner has put forth the following submissions:-

(i) Under Section 55 (1) of the Co-operative Societies Act (hereinafter referred to as "the Act") the Registrar can frame rules from time to time governing the terms and conditions of employment in a society or class of societies, but however, as per Sub-section (3) of Section 95 of the Act the same shall be laid on the table of Legislative Assembly. But in this case that was not done. That being so, it should only be taken that the amendment in rules has not come into force.

(ii) The employees of the State Co-operative Bank as well as District Co-operative Central Bank discharge the arduous duties which are radically different from the nature of the duties performed by the employees in other Co-operative Societies. The functioning of the Co-operative Banks is entirely different, with different staffing pattern. The employees of the Co-operative Banks form a different class when compared to the employees of the other Co-operative Societies.

(iii) The respondents have taken into account the irrelevant considerations in passing the impugned orders and hence the impugned orders are liable to be quashed as arbitrary and irrational.

(3) Learned Additional Advocate General appearing for the State contended that as per the Rule 55(3) of the Act all that is required is that the order of the Registrar must be placed before the Assembly, but it is not a pre condition for a Rule to come into effect. Fixing the age of retirement

is a matter of policy and the Registrar has taken into consideration only relevant factors for passing the impugned orders. What is being contended is that the employees of the Co-operative Banks discharge different kind of functions but no where it has been stated that their functions are more arduous when compared to the functions of the employees of other Co-operative Societies. Finally, it is submitted that the rule laying down that those employees who are in service and completed 58 years of age shall be treated as retired is valid.

(4) We may straightaway say that in view of the rulings of the Supreme Court reported in **2003 (9) JT-178** and also **1979(2) SCC-196,** there is no substance in the first submission made by the petitioner.

(5) Remaining points can be taken together and considered. It is pleaded by the petitioner that the employees of the Co-operative Banks discharge different kind of functions which are arduous, but no where it is pleaded that their functions when compared to the functions of the employees of other Co-operative Societies are more arduous / onerous. It may be that Chhattisgarh State Co-operative Banks and District Co-operative Central Banks carry on different kind of work, but that will not prevent the respondents from taking a policy decision to reduce the age of the employees from 60 years to 58 years. The reasons given by the State Government that the reduction is necessary in order to bring out the similarity regarding the age of retirement and also to improve the financial position cannot be said to be irrelevant considerations. Of course, a contention is raised that the Government owes about Rs.155 Crores to Co-operative Banks and that is why the financial condition is not satisfactory and that they are running in loss. But unless it is known what

is the extent of actual loss that is being sustained by these banks, with the available materials it cannot be said that failure of the Government to pay the amount to Co-operative Banks is the only reason for financial loss to banks. The policy decision by the respondents to reduce the retirement age of the Co-operative Bank Employees cannot be said to be arbitrary or irrational. In the case of **LIC of India Vs. S.S. Shrivastava, (AIR 1987 SC-1527),** the Supreme Court observed as under:

> "the Court can take Judicial notice of the different ages of retirement prevailing in the several services in India. In almost all the public sector Corporations, Central services and State services 58 years age is considered to be a reasonable age at which officers can be directed to retire from their service."

Of course, it is pointed out that there are number of vacancies in the Banks yet to be filled up. Even if that be so, that cannot be a ground for setting aside the impugned orders.

(6) From the foregoing discussion, this Court is of the view that the writ petition is devoid of merits. Accordingly, the writ petition is dismissed at the admission stage.

Sd/-
Chief Justice

Sd/-
L.C. Bhadoo
Judge

2 6/10/2004